

1 **BIBIYAN LAW GROUP, P.C.**
2 David D. Bibiyan (Cal. Bar No. 287811)
david@tomorrowlaw.com
3 Jeffrey D. Klein (Cal. Bar No. 297296)
jeff@tomorrowlaw.com
4 Paal Bakstad (Cal. Bar No. 213630)
paal@tomorrowlaw.com
5 8484 Wilshire Boulevard, Suite 500
6 Beverly Hills, California 90211
7 Tel: (310) 438-5555; Fax: (310) 300-1705
8 Attorneys for Plaintiff, STEPHEN MICHAEL ADAMS and
9 on behalf of himself and all others similarly situated

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*

01/23/2024
Clerk of the Court
BY: AUSTIN LAM
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

CGC-24-611827

10 STEPHEN MICHAEL ADAMS, an individual
11 and on behalf of all others similarly situated,

12 Plaintiff,

13 v.

14 FIVE KEYS SCHOOLS AND PROGRAMS,
15 a California corporation; and DOES 1 through
16 100, inclusive,

17 Defendants.

CASE NO.:

CLASS ACTION COMPLAINT FOR:

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. FAILURE TO PAY INTEREST ON DEPOSITS;
10. VIOLATION OF LABOR CODE § 227.3
11. UNFAIR COMPETITION.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

1 Plaintiff STEPHEN MICHAEL ADAMS, on behalf of Plaintiff and all others similarly
2 situated, alleges as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against Five
6 Keys Schools and Programs, and any of its respective subsidiaries or affiliated companies within
7 the State of California (“Five Keys”); (“Five Keys” and collectively, with DOES 1 through 100, as
8 further defined below, “Defendants”) on behalf of Plaintiff and all other current and former non-
9 exempt California employees employed by or formerly employed by Defendants (“Class
10 Members”).

11 **PARTIES**

12 A. **Plaintiff**

13 2. Plaintiff STEPHEN MICHAEL ADAMS is a resident of the State of California. At
14 all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that
15 Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not
16 limited to, cleaning trash on the highway and clean shelters. Plaintiff is informed and believes, and
17 based thereon alleges, that Plaintiff STEPHEN MICHAEL ADAMS worked for Defendants from
18 approximately November 2, 2022 through approximately May 11, 2023.

19 B. **Defendants**

20 3. Plaintiff is informed and believes and based thereon alleges that defendant Five Keys
21 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of
22 the laws of the State of California and doing business in the County of San Francisco , State of
23 California.

24 4. The true names and capacities, whether individual, corporate, associate, or otherwise,
25 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,

1 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
2 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
3 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
4 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
5 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
6 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
7 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
8 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
9 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
10 include Five Keys, and any of their parent, subsidiary, or affiliated companies within the State of
11 California, as well as DOES 1 through 100 identified herein.

12 **JOINT LIABILITY ALLEGATIONS**

13 5. Plaintiff is informed and believes and based thereon alleges that all the times
14 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
15 representative, joint venture or co-conspirator of each of the other defendants, either actually or
16 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
17 employment, joint venture, and conspiracy.

18 6. All of the acts and conduct described herein of each and every corporate defendant
19 was duly authorized, ordered, and directed by the respective and collective defendant corporate
20 employers, and the officers and management-level employees of said corporate employers. In
21 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
22 their said employees, agents, and representatives, and each of them; and upon completion of the
23 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
24 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
25 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the

1 aforementioned corporate employees, agents and representatives.

2 7. Plaintiff is further informed and believes and based thereon alleges that DOES 51
3 through 100 violated, or caused to be violated, the above-referenced and below-referenced Labor
4 Code provisions in violation of Labor Code section 558.1.

5 8. Plaintiff is informed and believes, and based thereon allege, that there exists such a
6 unity of interest and ownership between Defendants, and each of them, that their individuality and
7 separateness have ceased to exist.

8 9. Plaintiff is informed and believes, and based thereon alleges that despite the
9 formation of the purported corporate existence of Five Keys, and DOES 1 through 50, inclusive (the
10 “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51 through 100
11 (“Individual Defendants”), and each of them, due to, but not limited to, the following reasons:

12 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
13 Defendants who personally committed the wrongful and illegal acts and violated the
14 laws as set forth in this Complaint, and who has hidden and currently hide behind the
15 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
16 other wrongful or inequitable purpose;

17 B. The Individual Defendants derive actual and significant monetary benefits by and
18 through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego
19 Defendants as the funding source for the Individual Defendants’ own personal
20 expenditures;

21 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
22 and the Alter Ego Defendants, while really one and the same, were segregated to
23 appear as though separate and distinct for purposes of perpetrating a fraud,
24 circumventing a statute, or accomplishing some other wrongful or inequitable
25 purpose;

- 1 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
2 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
3 mentioned herein were, so mixed and intermingled that the same cannot reasonably
4 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
5 are, and at all relevant times mentioned herein were, used by the Individual
6 Defendants as mere shells and conduits for the conduct of certain of their, and each
7 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
8 herein were, the alter egos of the Individual Defendants;
- 9 E. The recognition of the separate existence of the Individual Defendants and the Alter
10 Ego Defendants would promote injustice insofar that it would permit defendants to
11 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
12 Code, and other statutory violations. The corporate existence of these defendants
13 should thus be disregarded in equity and for the ends of justice because such
14 disregard is necessary to avoid fraud and injustice to Plaintiff herein;
- 15 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
16 Defendants (and vice versa), and the fiction of their separate corporate existence
17 must be disregarded;
- 18 10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
19 thereon alleges that Defendants, and each of them, are joint employers.

20 **JURISDICTION**

- 21 11. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
22 of Civil Procedure section 410.10.
- 23 12. Venue is proper in SAN FRANCISCO County, California pursuant to Code of Civil
24 Procedure sections 392, et seq. because, among other things, SAN FRANCISCO County is where
25 the causes of action complained of herein arose; the county in which the employment relationship

1 began; the county in which performance of the employment contract, or part of it, between Plaintiff
2 and Defendants was due to be performed; the county in which the employment contract, or part of
3 it, between Plaintiff and Defendants was actually performed; and the county in which Defendants,
4 or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff
5 and Class Members in SAN FRANCISCO County, and because Defendants employ numerous Class
6 Members in SAN FRANCISCO County.

FACTUAL BACKGROUND

8 13. For at least four (4) years prior to the filing of this action and continuing to the
9 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
10 some of them, in violation of California state wage and hour laws as a result of, without limitation,
11 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
12 seven consecutive work days in a work week without being properly compensated for hours worked
13 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
14 worked on the seventh consecutive work day in a work week by, among other things, failing to
15 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay;
16 engaging, suffering, or permitting employees to work off the clock, including, without limitation,
17 by requiring Plaintiff and Class Members: to come early to work and leave late work without being
18 able to clock in for all that time, to suffer under Defendants' control due to long lines for clocking
19 in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out
20 for meal periods and continue working, to clock out for rest periods, safety equipment off the clock,
21 to attend company meetings off the clock, failing to include all forms of remuneration, including
22 non-discretionary bonuses, incentive pay, meal allowances, mask allowances, gift cards and other
23 forms of remuneration into the regular rate of pay for the pay periods where overtime was worked
24 and the additional compensation was earned for the purpose of calculating the overtime rate of pay;
25 detrimental rounding of employee time entries, editing and/or manipulation of time entries; and by

1 attempting but failing to properly implement an alternative workweek schedule (“AWS”)
2 (including, without limitation, by failing to implement a written agreement designating the regularly
3 scheduled alternative workweek in which the specified number of work days and work hours are
4 regularly recurring; failing to adopt the AWS in a secret ballot election, before the performance of
5 work, by at least a two-thirds (2/3) vote of the affected employees in the work unit; failing to follow
6 the notice/disclosures procedures prior to any AWS election; and/or failing to register an AWS
7 election with the State of California, as required by Labor Code section 511 and applicable Wage
8 Orders) to the detriment of Plaintiff and Class Members.

9 14. For at least four (4) years prior to the filing of this Action and continuing to the
10 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
11 or some of them, in violation of California state wage and hour laws as a result of, among other
12 things, at times, failing to accurately track and/or pay for all hours actually worked at their regular
13 rate of pay that is above the minimum wage; engaging, suffering, or permitting employees to work
14 off the clock, including, without limitation, by requiring Plaintiff and Class Members: to come early
15 to work and leave late work without being able to clock in for all that time, to suffer under
16 Defendants’ control due to long lines for clocking in, to complete pre-shift tasks before clocking in
17 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
18 out for rest periods, safety equipment off the clock, to attend company meetings off the clock,
19 detrimental rounding of employee time entries; editing and/or manipulation of time entries to show
20 less hours than actually worked; failing to pay split shift premiums; and failing to pay reporting time
21 pay to the detriment of Plaintiff and Class Members.

22 15. For at least four (4) years prior to the filing of this Action and continuing to the
23 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
24 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
25 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on

1 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
2 for such unprovided meal periods as required by California wage and hour laws.

3 16. For at least four (4) years prior to the filing of this action and continuing to the
4 present, Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or
5 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
6 fraction thereof and failed to provide compensation for such unprovided rest periods as required by
7 California wage and hour laws.

8 17. For at least three (3) years prior to the filing of this action and continuing to the
9 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the
10 full amount of their wages owed to them upon termination and/or resignation as required by Labor
11 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
12 minimum wages, premium wages.

13 18. For at least one (1) year prior to the filing of this Action and continuing to the present,
14 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
15 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
16 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
17 hours worked at each hourly rate; and other such information as required by Labor Code section
18 226, subdivision (a). As a result thereof, Defendants have further failed to furnish employees with
19 an accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

20 19. For at least one (1) year prior to the filing of this action and continuing to the present,
21 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full
22 amount of their wages for labor performed in a timely fashion as required under Labor Code section
23 204.

24 20. For at least three (3) years prior to the filing of this action and continuing to the
25 present, Defendants have, at times, failed to indemnify Class Members, or some of them, for the

costs incurred.

21. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated employees or former employees within the State of California with compensation at their final rate of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

22. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiffs and similarly situated employees or former employees within the State of California with the rights provided to them under the Healthy Workplace Heathy Families Act of 2014, codified at Labor Code section 245, *et seq.*

23. Plaintiff, on their own behalf and on behalf of Class Members, brings this action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7, 227.3, 245, *et seq.*, 404, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failure to indemnify work-related expenses, failing to pay vested vacation time at the proper rate of pay, other such provisions of California law, and reasonable attorneys' fees and costs.

24. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations, as well as all monies owed but withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as restitution of amounts owed.

CLASS ACTION ALLEGATIONS

1 25. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
2 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current
3 and former non-exempt employees of Defendants within the State of California at any time
4 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice
5 of the class action is provided to the class (collectively referred to as "Class Members").

6 26. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
7 to amend or modify the class description with greater specificity, further divide the defined class
8 into subclasses, and to further specify or limit the issues for which certification is sought.

9 27. This action has been brought and may properly be maintained as a class action under
10 the provisions of Code of Civil Procedure section 382 because there is a well-defined community
11 of interest in the litigation and the proposed Class is easily ascertainable.

12 A. Numerosity

13 28. The potential Class Members as defined are so numerous that joinder of all the
14 members of the Class is impracticable. While the precise number of Class Members has not been
15 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class
16 Members employed by Defendants within the State of California.

17 29. Accounting for employee turnover during the relevant periods necessarily increases
18 this number. Plaintiff alleges Defendants' employment records would provide information as to the
19 number and location of all Class Members. Joinder of all members of the proposed Class is not
20 practicable.

21 B. Commonality

22 30. There are questions of law and fact common to Class Members. These common
23 questions include, but are not limited to:

24 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
25 worked at a proper overtime rate of pay?

- 1 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
2 for all other time worked at the employee's regular rate of pay and a rate of pay that
3 is greater than the applicable minimum wage?
- 4 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
5 Class Members to take compliant meal periods?
- 6 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
7 with additional wages for missed or interrupted meal periods?
- 8 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
9 Class Members to take compliant rest periods?
- 10 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
11 with additional wages for missed rest periods?
- 12 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
13 Members upon termination or resignation all wages earned?
- 14 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
15 section 203?
- 16 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
17 Class Members with accurate wage statements?
- 18 J. Did Defendants fail to pay Class Members in a timely fashion as required under
19 Labor Code section 204?
- 20 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
21 losses incurred in direct consequence of the discharge of their duties or by obedience
22 to the directions of Defendants as required under Labor Code section 2802?
- 23 L. Did Defendants fail to return deposits made by Class Members with accrued interest
24 thereon as required under Labor Code section 404?
- 25 M. Did Defendants violate Labor Code section 227.3 by not providing Class Members

1 with compensation at their final rate of pay for vested paid vacation time.

2 N. Did Defendants violate the Unfair Competition Law, Business and Professions Code
3 section 17200, *et seq.*, by their unlawful practices as alleged herein?

4 O. Are Class Members entitled to restitution of wages under Business and Professions
5 Code section 17203?

6 P. Are Class Members entitled to costs and attorneys' fees?

7 Q. Are Class Members entitled to interest?

8 C. **Typicality**

9 31. The claims of Plaintiff herein alleged are typical of those claims which could be
10 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
11 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
12 damages arising out of and caused by Defendants' common course of conduct in violation of laws
13 and regulations that have the force and effect of law and statutes as alleged herein.

14 D. **Adequacy of Representation**

15 32. Plaintiff will fairly and adequately represent and protect the interest of Class
16 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
17 hour class actions.

18 E. **Superiority of Class Action**

19 33. A class action is superior to other available means for the fair and efficient
20 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
21 questions of law and fact common to Class Members predominate over any questions affecting only
22 individual Class Members. Class Members, as further described therein, have been damaged and
23 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
24 violation of the Labor Code at times, as set out herein.

25 34. Class action treatment will allow Class Members to litigate their claims in a manner

1 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
2 any difficulties that are likely to be encountered in the management of this action that would
3 preclude its maintenance as a class action.

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FIRST CAUSE OF ACTION

(Failure to Pay Overtime Wages – Against All Defendants)

8 35. Plaintiff realleges and incorporates by reference all of the allegations contained in
9 the preceding paragraphs as though fully set forth hereat.

10 36. At all relevant times, Plaintiff and Class Members were employees or former
11 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
12 Wage Orders.

13 37. At all times relevant to this Complaint, Labor Code section 510 was in effect and
14 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
15 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
16 at the rate of no less than one and one-half times the regular rate of pay for an employee."

17 38. At all times relevant to this Complaint, Labor Code section 510 further provided that
18 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
19 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
20 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
21 pay.”

22 39. Four (4) years prior to the filing of the Complaint in this Action through the present,
23 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
24 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
25 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a

1 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
2 actually worked at the proper overtime rate of pay ; engaging, suffering, or permitting employees to
3 work off the clock, including, without limitation, by requiring Plaintiff and Class Members: to come
4 early to work and leave late work without being able to clock in for all that time, to suffer under
5 Defendants' control due to long lines for clocking in, to complete pre-shift tasks before clocking in
6 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
7 out for rest periods, safety equipment off the clock, to attend company meetings off the clock, failing
8 to include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal
9 allowances, mask allowances, gift cards and other forms of remuneration into the regular rate of pay
10 for the pay periods where overtime was worked and the additional compensation was earned for the
11 purpose of calculating the overtime rate of pay; detrimental rounding of employee time entries,
12 editing and/or manipulation of time entries; and by attempting but failing to properly implement an
13 alternative workweek schedule (“AWS”) (including, without limitation, by failing to implement
14 a written agreement designating the regularly scheduled alternative workweek in which the
15 specified number of work days and work hours are regularly recurring; failing to adopt the AWS in
16 a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the
17 affected employees in the work unit; failing to follow the notice/disclosures procedures prior to any
18 AWS election; and/or failing to register an AWS election with the State of California, as required
19 by Labor Code section 511 and applicable Wage Orders) to the detriment of Plaintiff and Class
20 Members.

21 40. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
22 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
23 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
24 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
25 applicable IWC Wage Orders, and California law.

1 41. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
2 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
3 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
4 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

7 42. Plaintiff realleges and incorporates by reference all of the allegations contained in
8 the preceding paragraphs as though fully set forth hereat.

9 43. At all relevant times, Plaintiff and Class Members were employees or former
10 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

11 44. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
12 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
13 Defendants' control.

14 45. For four (4) years prior to the filing of the Complaint in this Action through the
15 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
16 their regular rate of pay that is above the minimum wage; engaged, suffered, or permitted employees
17 to work off the clock, including, without limitation, by requiring Plaintiff and Class Members: to
18 come early to work and leave late work without being able to clock in for all that time, to suffer
19 under Defendants' control due to long lines for clocking in, to complete pre-shift tasks before
20 clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue
21 working, to clock out for rest periods, safety equipment off the clock, to attend company meetings
22 off the clock, detrimental rounding of employee time entries; editing and/or manipulation of time
23 entries to show less hours than actually worked; failing to pay split shift premiums; and failing to
24 pay reporting time pay to the detriment of Plaintiff and Class Members.

25 46. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have

1 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
2 for all hours worked or otherwise due.

3 47. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
4 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to
5 recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
6 damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

9 48. Plaintiff realleges and incorporates by reference all of the allegations contained in
10 the preceding paragraphs as though fully set forth hereat.

11 49. At all relevant times, Plaintiff and Class Members were employees or former
12 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

13 50. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
14 employ an employee for a work period of more than five (5) hours without a timely meal break of
15 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
16 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
17 per day without providing the employee with a second timely meal period of not less than thirty (30)
18 minutes in which the employee is relieved of all of his or her duties.

19 51. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
20 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
21 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
22 of compensation for each workday that the meal period is not provided.

23 52. For four (4) years prior to the filing of the Complaint in this Action through the
24 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
25 free uninterrupted meal periods every five hours of work without waiving the right to take them, as

1 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
2 Class Member's regular rate of compensation on the occasions that Class Members were not
3 provided compliant meal periods.

4 53. By their failure to provide Plaintiff and Class Members compliant meal periods as
5 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
6 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
7 violated the provisions of Labor Code section 512 and applicable Wage Orders.

8 54. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
9 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
10 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

11 55. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
12 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
13 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
14 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

17 56. Plaintiff realleges and incorporates by reference all of the allegations contained in
18 the preceding paragraphs as though fully set forth hereat.

19 57. At all relevant times, Plaintiff and Class Members were employees or former
20 employees of Defendants covered by applicable Wage Orders.

21 58. California law and applicable Wage Orders require that employers "authorize and
22 permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour
23 work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-
24 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
25 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes

1 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
2 thirty (30) minutes of paid rest period.

3 59. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
4 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
5 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's
6 regular rate of compensation for each work day that the rest period is not provided.

7 60. For four (4) years prior to the filing of the Complaint in this Action through the
8 present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete,
9 timely 10-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction
10 thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
11 Member's regular rate of compensation on the occasions that Class Members were not authorized
12 or permitted to take compliant rest periods.

13 61. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
14 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
15 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
16 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

17 62. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
18 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
19 owed for rest periods that they were not authorized or permitted to take.

20 63. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
21 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus
22 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
23 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

24 **FIFTH CAUSE OF ACTION**

25 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

1 64. Plaintiff realleges and incorporates by reference all of the allegations contained in
2 the preceding paragraphs as though fully set forth hereat.

3 65. At all relevant times, Plaintiff and Class Members were employees or former
4 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
5 Wage Orders.

6 66. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
7 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
8 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
9 discharge immediately upon termination. Class Members who resigned were entitled to payment
10 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
11 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
12 unpaid at the time of resignation.

13 67. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
14 years before the filing of the Complaint in this Action through the present, Defendants, due to the
15 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class
16 Members all wages earned prior to resignation or termination in accordance with Labor Code
17 sections 201 or 202.

18 68. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
19 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
20 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
21 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
22 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
23 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
24 or resignation.

25 69. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to

1 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
2 resignation, until paid, up to a maximum of thirty (30) days.

3 70. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
4 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
5 prior to termination or resignation.

6 71. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
7 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
8 waiting time penalties, interest, and their costs of suit, as well.

SIXTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements – Against All Defendants)

11 72. Plaintiff realleges and incorporates by reference all of the allegations contained in
12 the preceding paragraphs as though fully set forth hereat.

13 73. At all relevant times, Plaintiff and Class Members were employees or former
14 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

15 74. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
16 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
17 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
18 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
19 number of hours worked at each hourly rate; among other things.

20 75. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
21 before the filing of the Complaint in this Action through the present, Defendants failed to comply
22 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
23 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
24 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
25 all applicable hourly rates in effect during the pay period and the corresponding number of hours

worked at each hourly rate; among other things.

76. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully provided wage statements that Defendants knew were not accurate.

6 77. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
7 suffered injury. The absence of accurate information on Class Members' wage statements at times
8 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
9 mathematical computations to determine the amount of wages owed; causes difficulty and expense
10 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
11 about wages and amounts deducted from wages to state and federal governmental agencies, among
12 other things.

13 78. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
14 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
15 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
16 pay period, not to exceed an aggregate \$4,000.00 per employee.

17 79. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
18 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
19 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
20 attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

(Failure to Timely Pay Wages During Employment – Against All Defendants)

23 80. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and
24 incorporates each by reference as though fully set forth hereat.

25 ||| 81. At all relevant times, Plaintiff and Class Members were employees or former

1 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

2 82. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
3 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
4 during which the labor was performed, and labor performed between the 16th and the last day,
5 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
6 month.”

7 83. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
8 independent and apart from, any other penalty provided in this article, every person who fails to pay
9 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
10 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
11 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
12 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
13 percent of the amount unlawfully withheld.”

14 84. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
15 before the filing of the Complaint in this Action through the present, Defendants employed policies
16 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
17 Labor Code section 204.

18 85. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
19 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one
20 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
21 for each subsequent violation in connection with each payment that was made in violation of Labor
22 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

23 86. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
24 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
25 interest, and their costs of suit, as well.

EIGHTH CAUSE OF ACTION

(Violation of Labor Code § 2802 – Against All Defendants)

3 87. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

88. At all relevant times, Plaintiff and Class Members were employees or former
employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

7 89. Labor Code section 2802, subdivision (a) provides that "an employer shall indemnify
8 his or her employee for all necessary expenditures or losses incurred by the employee in direct
9 consequence of the discharge of his or her duties . . ."

10. For three (3) years prior to the filing of the Complaint in this Action through the
11 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
12 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
13 obedience to the directions of Defendants.

14 91. During that time period, Plaintiff is informed and believes, and based thereon alleges
15 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and
16 Class Members for those losses and/or expenditures.

17 92. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
18 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
19 herein-described losses and/or expenditures.

20 93. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
21 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
22 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees and
23 costs of suit.

NINTH CAUSE OF ACTION

(Violation of Labor Code § 404 – Against All Defendants)

94. Plaintiff realleges and incorporates by reference all of the allegations contained in
the preceding paragraphs as though fully set forth herein.

95. At all relevant times, Plaintiff and Class Members were employees or former
employees of Defendants covered by Labor Code sections 400 through 410.

5 96. Pursuant to Labor Code section 404, Defendants were required to immediately return
6 amounts deposited with accrued interest when Plaintiff and Class Members returned the required
7 uniforms to Defendants.

8 97. Plaintiff is informed and believes, and based thereon alleges that for three (3) years
9 prior to the filing of this Action through the present, due to policies and practices adopted by
10 Defendants, Defendants violated Labor Code section 404 by failing to, at times, immediately return
11 accrued interest on deposits made by Plaintiff and Class Members.

12 98. As a result of Defendants' conduct, Plaintiff and Class Members have suffered
13 damages in an amount subject to proof, to the extent they were not compensated for accrued interest
14 on amounts deposited.

15 99. Pursuant to Labor Code sections 218, 218.5, and 404, Plaintiff and Class Members
16 are entitled to recover their unpaid accrued interest on uniform deposits, reasonable attorney's fees
17 and costs of suit.

TENTH CAUSE OF ACTION

(Violation of Labor Code § 227.3 – Against All Defendants

20 100. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
21 the preceding paragraphs of this Complaint as though fully set forth hereon.

22 101. According to Labor Code section 227.3, whenever a contract of employment or
23 employer policy provides for paid vacations, and an employee is terminated without having taken
24 off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in
25 accordance with such contract of employment or employer policy respecting eligibility or time

1 | served.

2 102. Plaintiff is informed and believes, and based thereon alleges that, at all times relevant
3 hereto, Defendants promulgated and maintained a uniform policy providing for paid vacations, and
4 that Plaintiff's employment contract with Defendants included paid vacations.

5 103. For at least four (4) years prior to the filing of this action and continuing to the
6 present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated
7 employees or former employees within the State of California with compensation at their final rate
8 of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

9 104. As a proximate result of Defendants' failure to pay vested vacation at the final rate
10 of Plaintiff and Class Members upon their resignation or termination, Defendants violated Labor
11 Code section 227.3, entitling Plaintiff and Class Members to all vested and unused vacation pay at
12 their final rate of pay, as set out in Defendants' policy or the contract of employment between
13 Plaintiff and Class Members, on the one hand, and Defendants, on the other hand.

14 105. As a further proximate result of Defendants' above-described acts and/or omissions,
15 Plaintiff and Class Members are entitled to recover reasonable attorneys' fees, costs of suit and
16 prejudgment interest.

ELEVENTH CAUSE OF ACTION

(Unfair Competition – Against All Defendants)

19 106. Plaintiff realleges and incorporates by reference all of the allegations contained in
20 the preceding paragraphs as though fully set forth hereat.

21 107. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct
22 of Defendants alleged herein constitutes unfair competition within the meaning of Business and
23 Professions Code section 17200. Plaintiff is further informed and believes and based thereon alleges
24 that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, for at
25 least four (4) years prior to the filing of this action and continuing to the present, Defendants have

1 had a consistent policy of failing to provide Plaintiff and similarly situated employees or former
2 employees within the State of California with the rights provided to them under the Healthy
3 Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.* Due to their
4 unlawful business practices in violation of the Labor Code, Defendants have gained a competitive
5 advantage over other comparable companies doing business in the State of California that comply
6 with their obligations to compensate employees in accordance with the Labor Code.

7 108. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
8 Members have suffered injury in fact and lost money or property.

9 109. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
10 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
11 Code and requiring the establishment of appropriate and effective means to prevent further
12 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
13 including interest thereon, in which they had a property interest and which Defendants nevertheless
14 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
15 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
16 by their failure to comply with the Labor Code.

17 110. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
18 Procedure section 1032 and interest under Civil Code section 3287.

DEMAND FOR JURY TRIAL

20 111. Plaintiff demands a trial by jury on all causes of action contained herein.

PRAAYER

22 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
23 against Defendants as follows:

- 24 A. An order certifying this case as a Class Action;
25 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's

counsel as class counsel;

- C. Damages for all wages earned and owed, including minimum and overtime wages and unpaid wages for vested vacation time, under Labor Code sections 510, 558.1, 1194, 1197 and 1199 and 227.3;
 - D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
 - E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections, 512, 558.1 and 226.7;
 - F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision (e) and 558.1;
 - G. Waiting time penalties under Labor Code sections 203 and 558.1;
 - H. Penalties to timely pay wages under Labor Code section 210;
 - I. Damages under Labor Code sections 2802 and 558.1;
 - J. Damages under Labor Code section 404;
 - K. Preliminary and permanent injunctions prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate and effective means to prevent future violations;
 - L. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;
 - M. Prejudgment and post-judgment interest at the maximum rate allowed by law;
 - N. For attorneys' fees in prosecuting this action;
 - O. For costs of suit incurred herein; and
 - P. For such other and further relief as the Court deems just and proper.

1 Dated: January 23, 2024

BIBIYAN LAW GROUP, P.C.

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3 BY: /s/ Paal Bakstad
4 DAVID D. BIBIYAN
5 JEFFREY D. KLEIN
PAAL BAKSTAD

6 Attorneys for Plaintiff STEPHEN MICHAEL ADAMS
on behalf of himself and all others similarly situated

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